



## **DEPARTMENT OF LABOR**

### **Occupational Safety and Health Administration**

**[Docket No. OSHA-2007-0039]**

#### **Intertek Testing Services NA, Inc.: Application for Expansion of Recognition and Request to Remove a Condition of Recognition**

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Notice.

**SUMMARY:** In this notice, OSHA announces the application of Intertek Testing Services NA, Inc. for expansion of its recognition as a Nationally Recognized Testing Laboratory and presents the Agency's preliminary finding to grant the application and request. Intertek Testing Services NA, Inc. requests the addition of two new sites and for OSHA to remove a special condition of its recognition that involves testing hazardous-location equipment. This preliminary finding does not constitute an interim or temporary approval of the application and request.

**DATES:** Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments by any of the following methods:

Electronically: Tender submissions electronically to the Federal eRulemaking Portal at <http://www.regulations.gov>. Follow the instructions online for making electronic submissions.

Facsimile: If submissions, including attachments, are not longer than ten (10) pages, commenters may fax them to the OSHA Docket Office at (202) 693-1648.

Regular or express mail, hand delivery, or messenger (courier) service: Tender submissions to the OSHA Docket Office, Docket No. OSHA-2013-0012, Technical Data Center, Room N-2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693-2350 (TTY number: (877) 889-5627). Note that security procedures may result in significant delays in receiving submissions sent by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by regular or express mail, hand delivery, or messenger (courier) service. The hours of operation for the OSHA Docket Office are 8:15 a.m. - 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and the OSHA docket number (OSHA-2007-0039). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials may be available online at <http://www.regulations.gov>. Therefore, the Agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

Docket: To read or download submissions or other material in the docket, go to <http://www.regulations.gov> or to the OSHA Docket Office at the address above. All documents in the docket are listed in the <http://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or

download through this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office.

Extension of Comment Period: You may submit requests for an extension of the comment period on or before [INSERT DATE 15 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER] to the Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-3655, Washington, DC 20210, or by fax to (202) 693-1644.

**FOR FURTHER INFORMATION CONTACT:** Information regarding this notice is available from the following sources:

Press inquiries: Contact Director, OSHA Office of Communications, Room N-3647, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, DC 20210; telephone: (202) 693-1999.

General and technical information: Contact David Johnson, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-3655, Washington, DC 20210; telephone (202) 693-2110. OSHA's web page includes information about the NRTL Program (see <http://www.osha.gov> and select "N" in the "A to Z Index" located at the top of the web page).

Copies of the Federal Register notice: Electronic copies of this Federal Register notice are available at <http://www.regulations.gov>. This Federal Register notice, as well

as other relevant information, is also available on OSHA's web page at

<http://www.osha.gov>.

## **SUPPLEMENTARY INFORMATION:**

### **I. Notice of the Application for Expansion of NRTL Recognition and Request to Remove a Condition of Recognition**

The Occupational Safety and Health Administration (OSHA) is providing notice that Intertek Testing Services NA, Inc. (ITSNA) is applying for expansion of its current recognition as a Nationally Recognized Testing Laboratory (NRTL). ITSNA also is requesting to remove a special condition for testing and evaluating hazardous-location equipment.

OSHA recognition of an NRTL signifies that the organization meets the requirements specified in Title 29, Code of Federal Regulations, Section 1910.7 (29 CFR 1910.7). Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition, and is not a delegation or grant of government authority. Recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The Agency processes applications by an NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the Federal Register in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding. In the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope

of recognition or modifications of that scope. OSHA maintains an informational Web page for each NRTL, including ITSNA, which details the NRTL's scope of recognition. These pages are available from the OSHA Web site at <http://www.osha.gov/dts/otpca/nrtl/index.html>.

Each NRTL's scope of recognition has three elements: (1) the type of products the NRTL may test, with each type specified by its applicable test standard; (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope; and (3) the supplemental program(s) that the NRTL may use. Each of these elements allows the NRTL to rely on other parties to perform activities necessary for product testing and certification.

ITSNA currently has 14 facilities (sites) recognized by OSHA for product testing and certification, with its headquarters located at: Intertek Testing Services NA, Inc., 3933 U.S. Route 11, Cortland, New York 13045. A complete list of ITSNA sites recognized by OSHA is available at <http://www.osha.gov/dts/otpca/nrtl/its.html>.

## **II. General Background on the Application and Request**

ITSNA submitted an application, dated June 8, 2007 (Ex. 1: ITSNA Application), to expand its recognition to include three additional facilities (sites) located at: 545 East Algonquin Road, Suite F, Arlington Heights, IL 60005 (ITSNA Chicago); 420 North Dorothy Drive, Richardson, TX 75081 (ITSNA Dallas); and 2307 East Aurora Road, Suite B7, Twinsburg, OH 44087 (ITSNA Cleveland). ITSNA later amended its application to remove the ITSNA Cleveland site from the application, and to change the

address for the ITSNA Dallas site to 1809 10<sup>th</sup> Street, Suite A, Plano, TX 75074 (Ex. 2: ITSNA Amended Applications dated 7/22/2009 and 10/20/2009).

On November 6, 2009, ITSNA submitted a letter seeking to relax or remove a special condition of its recognition which states: “All safety test reports for hazardous location products must undergo a documented review and approval at the Cortland testing facility by a test engineer qualified in hazardous location safety testing, prior to ITSNA's initial or continued authorization of the certifications covered by these reports. The above limitations apply solely to ITSNA's operations as an NRTL” (Ex. 3: ITSNA Hazardous Location Letter).

In connection with these requests, NRTL Program staff performed on-site reviews of ITSNA’s testing facilities in January 2010 (ITSNA Chicago) and February 2010 (ITSNA Dallas), and recommended expansion of ITSNA’s recognition to include these two sites (Ex. 4: ITSNA On-site Review Reports). Additionally, audits of these and other ITSNA NRTL sites determined that ITSNA has the appropriate training programs and controls in place to remove the special condition for testing hazardous-location equipment (Ex. 5: Memorandum Regarding Removal of Hazardous Location Restriction). As a result, the Agency preliminarily determined that it should (1) expand ITSNA’s scope of recognition to include the ITSNA Chicago and ITSNA Dallas sites, and (2) remove the special condition stated above from ITSNA’s scope of recognition.

### **III. Preliminary Finding on the Application and Request**

ITSNA submitted an acceptable application for expansion of its scope of recognition. OSHA’s review of the application file, and the results of the Agency’s on-site reviews

and other audits, indicate that ITSNA can meet the requirements prescribed by 29 CFR 1910.7 for expanding its recognition to use the facilities at the ITSNA Chicago and ITSNA Dallas sites for NRTL testing and certification. The on-site reviews and audits also indicate that the special condition of ITSNA's recognition is no longer necessary. This preliminary finding does not constitute an interim or temporary approval of ITSNA's application and request. ITSNA corrected the discrepancies noted by OSHA during the on-site reviews, and the on-site review reports describes these corrections (Ex. 4: ITSNA On-site Review Reports).

OSHA welcomes public comment as to whether ITSNA meets the requirements of 29 CFR 1910.7 for expansion of its recognition as an NRTL and removal of the special condition of recognition. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer period. OSHA may deny a request for an extension if it is not adequately justified. To obtain or review copies of the publicly available information in ITSNA's application and request, including pertinent documents (e.g., exhibits) and all submitted comments, contact the Docket Office, Room N-2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address; these materials also are available online at <http://www.regulations.gov> under Docket No. OSHA-2007-0039.

The NRTL Program staff will review all comments to the docket submitted in a timely manner and, after addressing the issues raised by these comments, will recommend to the Assistant Secretary whether to grant ITSNA's application for expansion and its request to remove the special condition of recognition. The Assistant Secretary will make the final decision on granting the application and request. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7. OSHA will publish a public notice of this final decision in the Federal Register.

#### **IV. Authority and Signature**

David Michaels, PhD, MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1-2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on May 23, 2013.

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**David Michaels,**  
*Assistant Secretary of Labor for Occupational Safety and Health.*

**BILLING CODE: 4510-26-P**

**[FR DOC. 2013-12810 FILED 05/29/2013 AT 8:45 AM; PUBLICATION DATE:  
05/30/2013]**